

Judge Robson
—ON—
**Segregation or Toleration
of Vice**

**The Duty of Police Authorities
The Enforcement of Law**



The Report of the Social Vice Commission
Winnipeg, January 11th, 1911.

**The Moral and Social Reform
Council of Canada.**

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Judge Robson's Report on Social Vice.

HISTORICAL INTRODUCTION.

Mr. Justice H. A. Robson was appointed in November, 1910, at the request of the Winnipeg City Council, by the Lieutenant-Governor-in-Council of Manitoba, to investigate certain charges publicly made by Dr. J. G. Shearer, of Toronto, and others, regarding conditions as to social vice in Winnipeg. The Commission of Investigation.

Dr. Shearer with others had made a tour of Western Canadian and American cities, attending a series of Purity Conventions and studying conditions as to social vice. On November 8th on the public platform in Winnipeg, on his way home, and to representatives of the Toronto papers on November 12th and 19th, he made in effect the following charges: Dr. Shearer's Charges.

1. That the authorities had permitted or authorized prostitutes to be segregated.
2. That this colony of criminal vice had grown in less than two years, until it contained 50 houses of shame with about 250 inmates.
3. That the police made no serious attempt to enforce the law against this criminal business of vice.
4. That, instead of enforcing the Criminal Code, they had substituted certain regulations of their own, arrogating to themselves the powers belonging exclusively to Parliament.
5. That every one of these vice dens was also an illicit liquor dive, doing business freely all days of the week and all hours of day and night.

6. That the authorities made no more serious attempt to enforce the liquor law than the Criminal Code, and that these women were prosecuted for engaging in this illicit trade in liquor about four times a year and uniformly fined \$100 and costs, which thus amounted to a price paid for permission to carry on for the year these dens and dives.

7. That the whole business was "strongly suggestive of graft."

Dr. Shearer on oath accepted as substantially correct the interviews published in the Globe and Mail and Empire excepting headlines, for which he disclaimed all responsibility, and some of which he pronounced false or exaggerated.

He reiterated these charges before the Judge, claimed that they had been more than substantiated by the responsible officials themselves, namely, the Mayor, Magistrates, Police Commissioners and Chief of Police, each and all of whom he charged before the Commission with dereliction of duty and violation of their oath of office.

The investigation began November 24th and concluded December 10th, 1910, the Commissioner's report being submitted on January 11th, 1911.

The following are the findings of Judge Robson, given at the end of his report in his own language.

THE FINDINGS OF JUDGE ROBSON.

The Judge concludes his report in these words:

"In the result, I have to report:

"1. That the charges as to vice in Winnipeg appearing as headings to the newspaper items in question are not true.

"2. As to the charge made by Dr. Shearer, so far as it condemns the condition of things in Winnipeg in regard to the question of social vice, I have to report that **a policy of toleration** of the offence in question in a limited area, with regulations as to conduct, was adopted by the Police Commissioners; that such an area was accordingly established by immoral women; that since October, 1909, there was no attempt to restrict the increase of houses of vice in the area, and the number of the houses of this class grew from 29 to 50.

"3. That **illicit liquor dealing** has been general and continuous in the houses in this area, and that, as already particularly shown, the law regarding the same has not been properly enforced.

"4. That the result of the above state of affairs has been the **disturbance of peace** and good order in the locality, a **menace to morals**, and great **depreciation in value of property** of the neighboring residents.

"5. That the above conditions were not brought about by the **corruption of any police authority**, and that the occupants of the houses referred to do not pay for police protection."

THE INVESTIGATION IN FULLER DETAIL.

The report of Judge Robson is too voluminous to print in full. Besides, necessarily, much of it deals with matters of purely local interest. The following extracts, however, deal with matters of the greatest importance and of the widest interest. The language is Judge Robson's:

"The matters charged by Dr. Shearer in the words acknowledged by him require more extended consideration.

"In the article complained of it is said that Dr. Shearer launched a strong indictment against the police officials of

Graft

Winnipeg, and that he detailed circumstances which he believed to be strongly suggestive of graft. Dr. Shearer acknowledged this statement, but explained that he meant by graft the preying upon the immoral women by those who had exacted high prices for property and generally impositions made upon their class. He did not in evidence make any charges of corruption on the part of the Police Commissioners, the Chief of Police or any police officer. The language of the newspaper report, taken with the context, would lead anyone to suppose that he had detailed circumstances which strongly suggested corruption on the part of the police. The words were no doubt read by the public in that way. No circumstances were disclosed on this inquiry which would support any such suggestion. All that need be said is that the evidence showed an entire absence of such an offence.

Pay for Police
Protection.

"As to the charges recited in the resolution of the City Council that it has been stated that houses of prostitution pay for police protection, Dr. Shearer acknowledged stating to the reporters that the women paid for protection of that nature, but said that he did not mean that they paid the regular police force. The evidence showed that some of them had employed private detectives for their own security. There was no such payment to any member of the regular force.

"Dr. Shearer, however, condemns the condition of things in Winnipeg in regard to the question of social vice, and by the commission I am required to report upon that, as upon the other matters specifically mentioned.

The Thomas St.
Colony.

"The evidence shows that for a period which Chief of Police McRae describes as 'about a quarter of a century' a number of places known as bawdy houses had been maintained in a westerly portion of the city, being latterly on Thomas Street, and that, by reason of police action, in January, 1904, this particular nuisance was abated. This action was taken as

a result of a resolution of the Board of Police Commissioners of the city passed in January, 1904, that the Chief of Police be and he was thereby instructed to take immediate steps to suppress all bawdy houses, houses of ill-fame and disorderly houses in the city of Winnipeg, and to rigidly enforce the law respecting the same. This simply declared that the Chief of Police should carry out the law.

WHAT DOES THE LAW SAY? —

“The common law of England may be thus described, using the language of an accepted authority: ‘It is clearly agreed The Law of England. that keeping a bawdy house is a common nuisance and it endangers the public peace by drawing together dissolute and debauched persons, and also has an apparent tendency to corrupt the manners of both sexes, by such an open profession of lewdness.’

“This principle was, at an early date, embodied in the Statute Law of Canada. Sections 225, 228, 238 and 239 of the Criminal Code declare the crime and impose the penalty.

“It is hardly necessary to point out that **the enactment of the criminal law rests with the Dominion Parliament** and that The Criminal Code of Canada. the administration and enforcement of that law in each province is the function of the respective provincial governments. No provincial authority may alter or suspend the criminal law of Canada.

“The Provincial Legislature, in enacting the city charter expressed its view on this subject, in so far as it could do so, by enacting that the city might pass by-laws not inconsistent with the provisions of any Dominion or provincial statute for suppressing disorderly houses and houses of ill-fame.

City By-law.

"The City Council passed upon the subject in By-law 1599, by declaring that no person should keep or maintain any disorderly house or house of ill-fame in the city.

Powers of
Police Commissioners.

"The Board of Police Commissioners for Winnipeg is appointed under the Winnipeg charter to govern the police force. They are empowered to make regulations for rendering the force efficient in the discharge of all its duties. It is declared by the charter that the duties of the constables include the special duty of preserving the peace, preventing robberies and other felonies and misdemeanors and apprehending offenders, and that the constables are liable to all the duties and responsibilities which belong by law to constables duly appointed.

Bound to
enforce law
uniformly.

"Nowhere can there be found any suggestion of authority in the Police Commissioners or any member of the force for withholding the enforcement of any law in any area of the city as against any class of offenders.

"I can approach the matter and deal with the facts solely in the light of the law applicable to the matter as declared by the powers in whom that jurisdiction is by law vested.

Suppression the
only lawful
policy.

"That law does not authorize anything but entire suppression of the offence. No policy, by whatsoever name it may be known, which involves any conditional or unconditional toleration of this crime, or immunity from punishment therefor, has any recognition by the law of Canada. The provincial and municipal legislation on the subject in the present case both emphasize this.

THE ACTION OF THE POLICE AUTHORITIES

Action of Police
Authorities
unlawful.

"The facts as disclosed by the Police Commissioners of 1909 and the Chief of Police, show that in that year there was brought about by them a condition of affairs at variance with

the principle of the common law above quoted, and the Statute of Canada, as found in the Criminal Code, and contrary to the spirit of the provincial legislation as found in the city charter, and of the city by-law referred to.

"Referring to this action of the Police Commissioners, Chief of Police McRae says: 'It was their intention that I should bring about new conditions by getting these women into one locality by themselves.'

"Acting on this, the Chief of Police showed a copy of the resolution to one of the most prominent of the women, a woman who had been a keeper on Thomas Street, asked her if the women could be got together in one place, and told her that he had nothing to do with the selection of the place. The Chief of Police said this woman understood, having lived under conditions that previously obtained, that they were going back to the old order of things.

Chief consults
"Queen of the
Harlots."

"The 'old order of things' was that which existed on Thomas Street as already described. It may also be illustrated by the fact that at its termination in January, 1904, when the police took action, 86 women from there pleaded guilty to being either keepers or inmates of bawdy houses.

"As a result of the resolution last referred to and the interview with the woman, a number of women at once acquired houses and got together on parts of Rachel and McFarlane Streets, Winnipeg, for the purpose of carrying on their immoral and unlawful traffic.

"This change of policy was no mere temporary expedient. It was the going back to the old order of things which had existed for twenty-five years. Many of the women, with the knowledge of the Chief of Police, purchased houses in the area, the Chief of Police himself sending to them a man through

Chief tells
women from
whom to get
property.

whom the purchase might be made. These purchases were made at exorbitant prices.

Regulations
imposed.

"The conditions imposed on the women may be described in the language of the Chief of Police, as follows: They were not expected to parade the streets, to solicit on the street, nor to go up town, nor to call in the uptown district, that they were not to have any manifestations of disorderly conduct, that all outward manifestations of disorderly conduct would be suppressed.

THE JUDGE'S SEVERE CRITICISM.

"A bawdy house is a house kept for the purposes of prostitution. It is not necessary to the crime that indecency or disorderly conduct should be perceptible from the exterior of the house. The observance of these conditions or regulations did not render the offence against the law any the less.

"A conditional
license to com-
mit a continuing
offence."

"The result of the matter was that in the area selected there was a **conditional license to commit a continuing offence.** In view of the law as above stated, **neither the Police Commissioners nor the Chief of Police had authority to permit such a state of affairs. Their duty was to see to an unremitting enforcement of the criminal law in all parts of the city.**"

Passive
Segregation,

"In justification of the policy of passive segregation, reference was made to another city where it was said that condition prevailed, and that it was 'so successful and quiet there that nobody thinks or knows anything about it.'

"Abominably
offensive
conduct."

"The evidence on this inquiry shows that in this experiment the result was directly the opposite. No matter how strict were the regulations imposed on the women, they were of no effect in preventing **disorderly and abominably offensive**

conduct in the neighborhood. One of the reasons for the keeping of a bawdy house being declared a nuisance at law is that it endangers the public peace by drawing together dissolute and debauched persons. That such is the result was abundantly proved here.

"The place selected, i.e., parts of Rachel and McFarlane Streets, was in the neighborhood of the residence of a considerable number of highly respected citizens. It was near the homes of residents of foreign birth. These citizens had wives and families, and most of these people, **both adults and children, in going to and fro between their homes and the city, whether to their work, or to school, church or market, had to pass through the area in question.** Several of the male residents and two respectable women gave evidence at the inquiry. It was evident that they were people who, not pretending to any rank, were of the highest respectability and exemplary citizens. **The state of affairs** described by them as existing since the establishment of the segregated area **was shocking.** I will not here use the language necessary to describe it in detail. It is necessary to peruse the evidence to understand what the residents have suffered.

Among highly respectable citizens, many of foreign birth.

"The evidence showed that, notwithstanding repeated and forceful complaints by the residents, the nuisance continued unabated, conditions not being so bad in the winter months.

"These sufferers are not wealthy. In some cases all their property is their home. Such depreciation has resulted from the conditions described that their property has become almost valueless and unsalable. These men, credible witnesses, testified that these insults and annoyances which they described have continued from July, 1909.

Property valueless and unsalable.

A reproach to
any civilized
community.

"That such a state of things should have existed and so continued is a reproach to any civilized community. It is the indispensable duty of civil society to protect its members in the enjoyment of their rights, both of person and property.

Producing
juvenile
offenders.

"It is impossible to say how serious is the evil influence on the surrounding community cast by the presence of these evil resorts. The example of conditions tolerated here as set before the foreign element is **most pernicious**. That vice should be flaunted before young children in the manner described by the residents is deplorable. **Nothing could be more likely to produce the juvenile offender.**

ILLICIT LIQUOR SELLING:

Illicit liquor
dives.

"One of the charges made by Dr. Shearer is that **every one** of these houses is 'an illicit liquor dive.' The evidence shows that drunkenness was a common thing among them, that deliveries of liquor there were made very frequently, and that many of the keepers had been from time to time convicted of unlawfully selling liquor. This evil seems invariably to be associated with these bawdy houses. The nuisance in the neighborhood is much increased by the drunkenness.

City Police and
Liquor Law.

"The city police, while having legal authority to do so, have never undertaken the prosecution of offences against the License Act, the reason being that it is a matter within the jurisdiction particularly of the provincial officers, and it was not thought well to interfere with their work. Section 230 of the License Act, as introduced by amendment in 1908, declares it shall be the duty of all municipal constables and police officers to assist in the enforcement of the provisions of the Act, and for that purpose they were given all the powers of license inspectors, and one-half of the fines levied by means of their action were to go to the municipality. On 27th April, 1908,

the chief license inspector addressed a letter to the Mayor and chairman of the Police Commission, calling attention to the amendment, and asking that the city officers join with the department in enforcing the Act.

"The Chief of Police stated in evidence that he did not know anything about the change in the law above mentioned; that he never had any occasion to look up the law. He acknowledged that the powers given in the License Act 'might contribute to the lessening of the sale of liquor in a much greater degree than what it is,' and that the powers of search might contribute to success in detecting other offences such as bawdy houses. The right of search is to be founded on a warrant which can, of course, be granted only on reasonable grounds, but from the evidence adduced it would seem that ample ground frequently existed for the issue of such a warrant.

"From the fact that the city receives substantial revenue from licenses to sell liquor, it would not seem out of place that its police force should, by special officers, if necessary, unite with the provincial police in the prevention of illicit liquor dealing. Should enforce this law.

"Dr. Shearer, after making the charge as to illicit liquor dealing, says: 'Remarkable to say, the inmates receive summonses regularly each quarter from the provincial license authorities. They come before the provincial magistrates and pay over \$100 and costs. Then they are not disturbed for another three months. These dives sell liquor twenty-four hours a day, seven days a week, and as the price of being permitted to do so each house pays this \$400 a year.' Provincial License Authority guilty also.

"The facts as to this charge are as follows: Charges of this nature, i.e., for selling liquor without license were prosecuted before Magistrate McMicken in the provincial police court.

Minimum
penalty every
time.

"The evidence shows that when these women were so charged there was almost invariably a plea of guilty followed by conviction and the minimum fine of one hundred dollars and costs.

"Notwithstanding that the law provides a much heavier minimum for subsequent offences, increasing as the offence is repeated, this was never imposed, the penalty inflicted always being the minimum for a first offence. The maximum penalty for third offence is \$1,000.

No adequate
explanation.

"The provincial police magistrate explained that a force could not at all times be kept in oversight of this area, and that the charges were laid at the periods when they were available for that duty. There is no adequate explanation of the imposition of the minimum fine in what is probably the worst class of offences of illicit liquor selling that can be found. The traffic was no doubt continuous, and could not be stopped by penalties which it was not difficult for the offenders to satisfy.

"Had the city's police department interested itself in this phase, even at the expense of special officers for the work, there is no doubt there would have been immediately obtained results which would have gone far to reduce the nuisance to which the illicit sale of liquor in the area gave rise.

Wholesale
Liquor Dealers
Liable.

"The evidence showed that in such houses the illicit sale of liquor is a common occurrence. Section 130 of the Liquor License Act declared that any person selling liquor by wholesale to any person, whom he knows or has reason to believe to be selling liquor without license shall be guilty of an offence and punishable therefor. This is a provision that might well be applied here.

WHAT IS TO BE DONE?

"The question now arises, **What is to be done?** Fifty houses together in one area of general reputation as houses of ill-fame. Their keepers known to follow that life, and many of them repeatedly convicted of illicit liquor selling. Is this state of affairs with its accompanying nuisance, as already described, to continue, subject to punishment when disorder appears, and to an occasional small fine for breach of the License Act? If not, how is it to be terminated?

"There is no doubt that in this, as in most other serious crimes, there is considerable difficulty in legally proving the offence.

"But if ever there was an occasion when it would seem possible to secure the evidence to successfully prosecute, this should be one.

"That offenders of this class are crafty and astute at eluding justice is well known. They generally have the money necessary to strongly resist prosecution, and take advantage of every technicality. But in view of the state of affairs revealed on this inquiry, it is not to be believed that vigilant and energetic officers could not by quite proper means secure the evidence necessary to convict these offenders of both classes of offence. And if penalties or imprisonment in the one case and the maximum fine, or alternative of imprisonment, in the other, were imposed, the resistance would not long endure. Even although as is said this evil can never be wholly eradicated in any city, there is no doubt that once these offenders are subjected to a rigorous application of the law the nuisance will be reduced to the lowest possible point. But the whole system must be made equally strong. Prison doors must not be opened to straw bail or because of technical objections.

Law can and ought to be enforced.

Legislation
Needed.

"It is of course difficult in the very nature of things to secure direct evidence of the main offence now under discussion. Mr. Daly (Police Magistrate) pointed out that there is a wide power of search in regard to the certain class of disorderly houses, which did not apply in regard to supposed bawdy houses. As Section 641 of the Code declares that on a written report from the chief police officer that there are good grounds for believing that a place is kept as a common gaming house authority may be given by a magistrate to such officer with constables to enter and take into custody all persons found in such places, and bring them before the magistrate. The granting of such a warrant is carefully guarded from abuse. Such a provision as this would be of great assistance in suppressing this evil traffic. While this is a matter for Dominion legislation, I have inserted reference to it here in order that, if the suggestion commends itself, it may lead to some action to obtain the necessary amendment. An amendment providing for the summary and immediate hearing of appeals from the magistrate would be valuable. As was pointed out by Mr. Daly, the length of time during which a conviction may be unenforced, pending appeal, tends to defeat justice."

